

AMENDED IN ASSEMBLY MARCH 31, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1136

Introduced by Assembly Member Dymally

February 22, 2005

An act to amend Sections 37253, 41505, 41506, 42239, and 52890 of, and to repeal Sections 41505.5, 42239, 42239.15, and 52891 of, the Education Code, relating to instruction, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1136, as amended, Dymally. Pupil retention block grants.

(1) Existing law authorizes the governing board of a school district and a charter school to offer supplemental instructional programs in mathematics, science, or other core academic areas, as designated, and provides that the maximum entitlement of a school district or charter school for reimbursement for pupil hours of attendance in the supplemental instructional programs shall be calculated pursuant to a formula that is based on 5% of the total enrollment of the school district or charter school for the prior fiscal year multiplied by a specified hourly rate. Existing law makes this authorization inoperative on July 1, 2005, and repeals it on January 1, 2006.

Existing law establishes a pupil retention block grant, that, commencing with the 2005–06 fiscal year, requires the Superintendent of Public Instruction to apportion funds to a school district in the same relative statewide proportion that the school district received in the 2003–04 fiscal year for specified programs, including supplemental instructional programs in mathematics, science, or other core academic areas, as designated.

This bill would remove supplemental instructional programs in mathematics, science, or other core academic areas, as designated, from the pupil retention block grant, and would delete the inoperative and repeal dates, extending the operation of provisions relating to those programs indefinitely.

(2) Existing law requires the State Department of Education to make an initial allocation of 75% of the allocation for a school district of block grant funds, and to make the remaining portion of the allocation only after supplemental instructional programs for pupils enrolled in grades 7 to 12, inclusive, who do not demonstrate sufficient progress toward passing the high school exit examination, and programs of direct, systematic, and intensive supplemental instruction to pupils enrolled in grades 2 to 9, inclusive, who have been recommended for retention or who have been retained, have been fully funded, as specified.

This bill would delete the requirement that the department retain the balance of block grant funds until supplemental instructional programs for pupils enrolled in grades 7 to 12, inclusive, who do not demonstrate sufficient progress toward passing the high school exit examination, and programs of direct, systematic, and intensive supplemental inscription to pupils enrolled in grades 2 to 9, inclusive, who have been recommended for retention or who have been retained, have been fully funded.

(3) Existing law requires a school district that received pupil retention block grant funds for dropout prevention and recovery programs in the 2003–04 fiscal year to maintain at least the same number of outreach consultants in the 2004–05 fiscal year. Existing law requires a school district to place consultants first in schools that have the highest percentages of pupils eligible for the federal free and reduced price lunch program.

This bill would require a school district that received funds for dropout prevention and recovery programs in the 2003–04 and the 2004–05 fiscal years to maintain at least the same number of outreach consultants in the 2004–05 fiscal year. The bill would require a school district to place consultants first in schools that have at least 50% of pupils eligible for the federal free and reduced price lunch program *and that are eligible for specified funding under the federal No Child Left Behind Act of 2001*.

(4) Existing law requires a school district and school that submits a school-based motivation and maintenance program plan pursuant to

specified provisions of law to include a description of the manner in which it will utilize outreach consultants, as specified. Existing law makes those provisions inoperative on July 1, 2005, and repeals them on January 1, 2006.

This bill would delete the inoperative and repeal dates, extending the operation of those provisions indefinitely.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 37253 of the Education Code is
2 amended to read:

3 37253. (a) The governing board of any school district and a
4 charter school may offer supplemental instructional programs in
5 mathematics, science, or other core academic areas designated by
6 the Superintendent of Public Instruction.

7 (b) The Superintendent of Public Instruction shall adopt rules
8 and regulations necessary to implement this section, including,
9 but not limited to, the designation of academic areas other than
10 mathematics and science as core academic areas.

11 (c) (1) The maximum entitlement of a school district or charter
12 school for reimbursement for pupil hours of attendance in
13 supplemental instructional programs offered pursuant to this
14 section shall be an amount equal to 5 percent of the total
15 enrollment of the school district or charter school for the prior
16 fiscal year multiplied by 120 hours, multiplied by the hourly rate
17 for the current fiscal year, as determined pursuant to paragraph
18 (2).

19 (2) Pupil hours of attendance in supplemental instructional
20 programs offered pursuant to this section shall be reimbursed at a
21 rate of three dollars and twenty-five cents (\$3.25) per pupil hour,
22 adjusted in future years as specified in this paragraph, provided
23 that a different reimbursement rate may be specified for each
24 fiscal year in the annual Budget Act that appropriates funding for
25 that fiscal year. This amount shall be increased annually by the
26 percentage increase pursuant to subdivision (b) of Section

1 42238.1 granted to school districts or charter schools for base
2 revenue limit cost-of-living increases.

3 (d) To the extent appropriated funding allows, a school district
4 or charter school may enroll more than 5 percent of its pupils, or
5 may enroll pupils for more than 120 hours per year, in
6 supplemental instructional programs offered pursuant to this
7 section, if the total state apportionment to the district or charter
8 school for these programs does not exceed an amount computed
9 equal to 10 percent of the total enrollment of the school district
10 or charter school for the prior fiscal year multiplied by 120 hours,
11 multiplied by the hourly rate for the current fiscal year, as
12 determined pursuant to paragraph (2) of subdivision (c).

13 (e) Instructional programs may be offered pursuant to this
14 section during the summer, before school, after school, on
15 Saturday, or during intersession, or in any combination of
16 summer, before school, after school, Saturday, or intersession
17 instruction, but shall be in addition to the regular schoolday. Any
18 minor pupil whose parent or guardian informs the school district
19 that the pupil is unable to attend a Saturday school program for
20 religious reasons, or any pupil 18 years of age or older who states
21 that he or she is unable to attend a Saturday school program for
22 religious reasons, shall be given priority for enrollment in
23 supplemental instruction offered at a time other than Saturday,
24 over a pupil who is not unable to attend a Saturday school
25 program for religious reasons.

26 (f) Notwithstanding any other law, neither the State Board of
27 Education nor the Superintendent of Public Instruction may
28 waive compliance with any provision of this section.

29 SEC. 2. Section 41505 of the Education Code is amended to
30 read:

31 41505. (a) There is hereby established the pupil retention
32 block grant. The Superintendent of Public Instruction shall
33 apportion block grant funds to a school district in the same
34 relative statewide proportion that the school district received in
35 the 2003–04 fiscal year for the programs listed in Section 41506.

36 (b) A school district may expend funds received pursuant to
37 this article for any purpose authorized by the programs listed in
38 Section 41506 as the statutes governing those programs read on
39 January 1, 2004.

1 (c) For purposes of this article, “school district” includes a
2 county office of education if county offices of education are
3 eligible to receive funds for the programs that are listed in
4 Section 41506. The block grant of a county office of education
5 shall be based only on those programs for which it was eligible to
6 receive funds in the 2003–04 fiscal year.

7 SEC. 3. Section 41505.5 of the Education Code is repealed.

8 SEC. 4. Section 41506 of the Education Code is amended to
9 read:

10 41506. The pupil retention block grant shall include funding
11 previously apportioned to school districts for purposes of the
12 following programs:

13 (a) Supplemental instruction as set forth in Section 37252.8,
14 Article 1 (commencing with Section 53025) of Chapter 16, and
15 Chapter 18 (commencing with Section 53091), of Part 28.
16 Notwithstanding any other provision of law, funding attributable
17 to the programs identified in this subdivision shall be adjusted
18 annually at both the statewide and local educational agency
19 levels to reflect actual participation, and local educational agency
20 funding eligibility shall not exceed the statutory limitations for
21 these programs, as the statutes governing these programs read on
22 January 1, 2004.

23 (b) Continuation high schools as set forth in Section 42243.7.

24 (c) High-Risk Youth Education and Public Safety as set forth
25 in Part 26.95 (commencing with Section 47750).

26 (d) Tenth grade counseling as set forth in Sections 48431.6
27 and 48431.7.

28 (e) Opportunity programs as set forth in Article 1
29 (commencing with Section 48630) and Article 2.3 (commencing
30 with Section 48643) of Chapter 4 of Part 27. The pupil retention
31 block grant shall not include funding apportioned to county
32 offices of education for opportunity schools and programs
33 administered under Sections 48640 and 48641.

34 (f) (1) Dropout prevention and recovery as set forth in Article
35 6 (commencing with Section 52890) and Article 7 (commencing
36 with Section 52900) of Chapter 12 of Part 28, Article 3
37 (commencing with Section 54660) and Article 7 (commencing
38 with Section 54720) of Chapter 9 of Part 29, and Chapter 3.5
39 (commencing with Section 58550) of Part 31. A school district
40 that received funds pursuant to the programs listed in this

1 subdivision in the 2003–04 and 2004–05 fiscal years shall utilize
2 funds received pursuant to this article to maintain at least the
3 same number of outreach consultants as described in Section
4 52890 that were utilized by the school district in the 2004–05
5 fiscal year.

6 (2) A school district shall place consultants in schools that
7 have at least 50 percent of pupils eligible for the federal free and
8 reduced price lunch program, ~~commencing with schools with the~~
9 ~~highest percentage of those pupils and continuing in this manner~~
10 ~~until the school district places in its schools all the outreach~~
11 ~~consultants required to be placed pursuant to this paragraph, and~~
12 ~~that are eligible for funds under Title I of the federal No Child~~
13 ~~Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.).~~

14 (g) Early intervention for school success as set forth in Article
15 4.5 (commencing with Section 54685) of Chapter 9 of Part 29.

16 (h) An at-risk youth program operated by the Los Angeles
17 Unified School District that is funded pursuant to Item
18 6110-280-0001 of Section 2.0 of the annual Budget Act.

19 SEC. 5. Section 42239 of the Education Code, as amended by
20 Section 8 of Chapter 871 of the Statutes of 2004, is repealed.

21 SEC. 6. Section 42239 of the Education Code, as added by
22 Section 9 of Chapter 871 of the Statutes of 2004, is amended to
23 read:

24 42239. (a) For each fiscal year the Superintendent of Public
25 Instruction shall compute funding for supplemental instruction
26 for each school district or charter school by multiplying the
27 number of pupil hours of supplemental instruction claimed
28 pursuant to Sections 37252 and 37252.2 by the pupil hour
29 allowance specified in subdivision (b) or by a pupil hour
30 allowance specified in the annual Budget Act in lieu of the
31 amount computed in subdivision (b).

32 (b) Hours of supplemental instruction shall be reimbursed at a
33 rate of three dollars and twenty-five cents (\$3.25) per pupil hour,
34 adjusted in future years as specified in this section, provided that
35 a different reimbursement rate may be specified for each fiscal
36 year in the annual Budget Act that appropriates funding for that
37 fiscal year. This amount shall be increased annually by the
38 percentage increase pursuant to subdivision (b) of Section
39 42238.1 granted to school districts or charter schools for base
40 revenue limit cost-of-living increases.

1 (c) (1) If appropriated funding is insufficient to pay all claims
2 made in any fiscal year pursuant to Sections 37252 and 37252.2,
3 the superintendent shall use any available funding appropriated
4 for the purposes of reimbursing school districts pursuant to
5 Sections 37252 and 37252.2.

6 (2) If appropriated funding is still insufficient to pay all claims
7 made in any fiscal year pursuant to Sections 37252 and 37252.2,
8 the superintendent shall use any available funding appropriated
9 for the purposes of reimbursing school districts for supplemental
10 instruction in the prior fiscal year.

11 (3) If appropriated funding is still insufficient to pay all claims
12 made in any fiscal year pursuant to Sections 37252 and 37252.2,
13 the superintendent shall use any available funding appropriated
14 for the purposes of reimbursing school districts for supplemental
15 instruction in the current fiscal year.

16 (4) If appropriated funding is still insufficient to pay all claims
17 made in any fiscal year pursuant to Sections 37252 and 37252.2,
18 the superintendent shall certify to the Controller the amount of
19 funds needed to fully fund claims pursuant to Sections 37252 and
20 37252.2. Upon receipt of certification from the superintendent,
21 the Controller shall transfer the amount from any funds available
22 for that fiscal year for the Pupil Retention Block Grant program
23 provided pursuant to Article 1 (commencing with Section 41505)
24 of Chapter 3.2 of Part 24. If insufficient funds are available from
25 the appropriation for the Pupil Retention Block Grant program
26 for the fiscal year, the Controller shall transfer any remaining
27 funds needed from any amount appropriated for the Pupil
28 Retention Block Grant program for the following fiscal year.

29 (5) The superintendent shall notify the Director of Finance that
30 there is an insufficiency of funding appropriated for the purposes
31 of Sections 37252 and 37252.2 only after the superintendent has
32 exhausted all available balances of appropriations made for the
33 current or prior fiscal years for the reimbursement of school
34 districts for supplemental instruction and shall report the amount
35 certified to be transferred from the Pupil Retention Block Grant
36 to eliminate that insufficiency.

37 (d) Notwithstanding any other provision of law, neither the
38 State Board of Education nor the Superintendent of Public
39 Instruction may waive any provision of this section.

40 SEC. 7. Section 42239.15 of the Education Code is repealed.

1 SEC. 8. Section 52890 of the Education Code is amended to
2 read:

3 52890. Each school district and school that submits a
4 school-based motivation and maintenance program plan pursuant
5 to Article 6 (commencing with Section 54720) of Chapter 9 of
6 Part 29, as that article read on January 1, 2004, shall include in
7 the plan a description of the manner in which it will utilize
8 outreach consultants. For purposes of this article, each outreach
9 consultant, at a minimum, shall do all of the following:

10 (a) Possess a Dropout Prevention Specialist Certificate from a
11 California State University, or enroll in a Dropout Prevention
12 Specialist Certificate program within 90 days of the date of hire,
13 except that outreach consultants employed on or before January
14 1, 2004, are exempt from this requirement.

15 (b) Demonstrate knowledge of local alternative educational
16 programs and employ those programs to respond to the
17 differential needs and unique learning styles of pupils.

18 (c) Demonstrate knowledge of local community agencies and
19 community programs to recruit those agencies and programs to
20 assist in the physical or psychological remediation of pupils.

21 (d) Utilize local school programs, options, and opportunities to
22 assist pupils in locating, securing, or retaining employment.

23 (e) Utilize techniques that enhance interpersonal
24 communication, self-understanding, self-disclosure, and
25 depth-level sharing.

26 (f) Employ appropriate methods to create circumstances
27 necessary so that change is permitted and encouraged in
28 individuals, programs, and institutions.

29 (g) Be responsible for supervising, instructing, conducting
30 negotiations with, and advising pupils and adults.

31 SEC. 9. Section 52891 of the Education Code is repealed.

32 SEC. 10. This act is an urgency statute necessary for the
33 immediate preservation of the public peace, health, or safety
34 within the meaning of Article IV of the Constitution and shall go
35 into immediate effect. The facts constituting the necessity are:

36 In order to address the special needs of pupils by supporting
37 supplemental instructional programs as soon as possible, it is
38 necessary that this act take effect immediately.

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